

Message Text

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ACTION IO-13

INFO OCT-01 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10 FEA-01

ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-01 COME-00 DLOS-06 DODE-00 DOTE-00 EB-07 EPA-01

ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05 JUSE-00

L-03 NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

PRS-01 SP-02 SS-15 USIA-06 SAL-01 (ISO) W

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FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC PRIORITY 8877

C O N F I D E N T I A L USUN 3450

FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS, EFIS

SUBJECT: LOS: ECUADOR APPROACH ON HIGHLY MIGRATORY SPECIES

1. ECUADORIAN REP (VALENCIA) APPROACHED AMBASSADOR CLINGAN AUGUST 24 TO INDICATE THAT HIS DELEGATION WISHES TO DEVELOP FURTHER ARTICLE 53 OF PART 2, RSNT, ON THE BASIS OF TWO PRINCIPLES. IN THEIR VIEW, THE COASTAL STATE SHOULD CLEARLY HAVE THE SAME RIGHTS OVER HIGHLY MIGRATORY SPECIES AS OVER OTHER RESOURCES IN THE ECONOMIC ZONE, AND A PRO-CE- DURE SAYING THAT MEASURES TAKEN BY A REGIONAL ORGANIZATION AFFECTING THE COASTAL STATE'S ECONOMIC ZONE CAN ONLY BE TAKEN WITH THE EXPRESS CONSENT OF THE COASTAL STATE. VALENCIA SAID THAT THEY WISH TO AVOID REHASHING ALL OF THE ISSUES CONCERNING HIGHLY MIGRATORY SPECIES IN THE REGIONAL NEGOTIATIONS.

2. VALENCIA INDICATED THAT THEY WOULD LIKE TO ESTABLISH A
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SMALL NEGOTIATING GROUP OF ALL INTERESTED STATES IN A

SIMILAR MANNER TO THE GROUPS ESTABLISHED UNDER THE RUBRIC OF COMMITTEE II FOR OTHER SPECIFIC ISSUES. HE SAID THAT HIS DELEGATION WILL MAKE A STATEMENT IN COMMITTEE II THAT THEY WISH TO TAKE UP ARTICLE 53 AND WILL SUPPORT SEVERAL PRINCIPLES SET FORTH PARA. 4 BELOW.

3. CLINGAN REVIEWED THE HISTORY OF THE NEGOTIATIONS BETWEEN ECUADOR AND THE US ON ARTICLE 53, INDICATING THAT WE GAVE UP THE IDEA OF TRYING FOR AN ACCOMMODATION IN THE LAW OF THE SEA TREATY AFTER THE BASIS FOR NEGOTIATIONS DEVELOPED BY THE US AND ECUADOR FELL APART. HE INDICATED THAT WE WOULD BE WILLING TO PROCEED ON THE AGREED BASIS, WHICH BOTH OF US HAVE CERTAIN DIFFICULTIES WITH, OR THAT WE COULD EXCHANGE PAPERS TO SEE IF THERE IS A BASIS FOR MORE WORK ALONG THOSE LINES. CLINGAN SAID THAT WE WILL NOT SUPPORT OR OPPOSE AT THIS TIME ANY STATEMENT ECUADOR MIGHT MAKE ON THE SUBJECT, AND EMPHASIZED THAT IT IS IMPORTANT TO START ANY DISCUSSIONS WHERE ECUADOR AND THE US LEFT OFF IN THE SPRING. HE REQUESTED THAT VALENCIA DISCUSS THIS APPROACH WITH OTHER INTERESTED STATES TO DETERMINE WHETHER THAT WOULD BE AN ACCEPTABLE BASIS. VALENCIA INDICATED THAT HE WOULD EXPECT SOME DIFFICULTY IN THAT.

4. VALENCIA HANDED PAPER WITH FOLLOWING PRINCIPLES TO CLINGAN, WHICH READS IN INFORMAL TRANSLATION AS FOLLOWS:

BEGIN TEXT:

A) AS A PRINCIPLE, THE COASTAL STATE HAS THE SAME RIGHTS OVER THE HIGHLY MIGRATORY SPECIES IN ITS EXCLUSIVE ECONOMIC ZONE AS IT HAS OVER THE OTHER RESOURCES IN THE ZONE;

B) ON THE BASIS OF THE BEST SCIENTIFIC EVIDENCE OF THE COASTAL STATE AND OTHER PERTINENT INFORMATION, THE COMPETENT SUBREGIONAL OR REGIONAL ORGANIZATION SHALL DETERMINE WHEN THE RESOURCE IS SUFFICIENTLY UTILIZED AND SHALL FORMULATE MEASURES DESIGNED TO ENSURE THE CONSERVATION, MANAGEMENT AND OPTIMUM UTILIZATION OF SUCH
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SPECIES;

C) THAT PART OF THE ALLOWABLE CATCH WHICH THE COASTAL STATE DOES NOT HAVE THE CAPACITY TO HARVEST SHALL BE MADE AVAILABLE BY THE COASTAL STATE TO OTHER STATES, AMONG THEM MEMBER STATES OF THE SAME COMPETENT SUBREGIONAL OR REGIONAL ORGANIZATION AND/OR NATIONALS OF OTHER DEVELOPING STATES OF THE REGION;

D) FOREIGN FLAG VESSELS SHALL PAY FEES ESTABLISHED BY THE COASTAL STATE AS A CONDITION FOR ACCESS TO FISHING WITHIN THE EXCLUSIVE ECONOMIC ZONE;

E) UNLESS ALL THE MEMBER STATES AGREE ON A DIFFERENT PROCEDURE, THE ADOPTION OF MEASURES BY THE COMPETENT SUBREGIONAL OR REGIONAL ORGANIZATION, REFERRED TO IN PARAGRAPH B) SUPRA, SHALL REQUIRE A TWO-THIRDS MAJORITY OF THE STATES PRESENT AND VOTING. THE ADOPTION OF MEASURES WHICH AFFECT THE EXCLUSIVE ECONOMIC ZONE OF A COASTAL STATE SHALL REQUIRE THE AGREEMENT OF SUCH STATE;

F) THE COASTAL STATE HAS THE DUTY TO ADOPT THE NECESSARY MEASURES TO ENSURE, WITHIN ITS EXCLUSIVE ECONOMIC ZONE, THE COMPLIANCE BY ALL KIND OF VESSELS OF APPLICABLE FISHING LAWS AND REGULATIONS AS WELL AS MEASURES ADOPTED BY THE COMPETENT INTERNATIONAL ORGANIZATION. END TEXT.

5. THE DEPARTMENT IS REQUESTED TO POUCH TO US DEL LOS A COPY OF LONG ARTICLE 53 DEVELOPED BY US AND ECUADOR AS A BASIS FOR NEGOTIATIONS.

6. COMMENT. US DEL IS DOUBTFUL ECUADOR WISHES, OR WILL BE ABLE TO, GAIN ACCEPTANCE OF PREVIOUS TEXT AS BASIS OF NEGOTIATIONS AMONG STATES INTERESTED IN EASTERN TROPICAL PACIFIC. UNLESS DEPARTMENT VIEWS SITUATION OTHERWISE, US DEL DOES NOT RPT NOT PROPOSE TO REOPEN ARTICLE 53.
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